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NOTICE OF ALLOWANCE AND FEE(S) DUE

000466 7590 02/06/2003

YOUNG & THOMPSON  
745 SOUTH 23RD STREET 2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER

GORDON, BRIAN R

ART UNIT

CLASS-SUBCLASS

1743

422-063000

DATE MAILED: 02/06/2003

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,360	09/26/2000	Leslie Robert Watson	00P061:RC:SB	8287

TITLE OF INVENTION: SAMPLE DISTRIBUTION APPARATUS/SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1300	\$0	\$1300	05/06/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.

☐ Applicant claims SMALL ENTITY status.  
See 37 CFR 1.27.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Box ISSUE FEE  
Commissioner for Patents  
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Fax (703)746-4000**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)**

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**YOUNG & THOMPSON  
745 SOUTH 23RD STREET 2ND FLOOR  
ARLINGTON, VA 22202**

**Note:** A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above, or being facsimile transmitted to the USPTO, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,360	09/26/2000	Leslie Robert Watson	00P061:RC:SB	8287

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nonprovisional	NO	\$1300	\$0	\$1300	05/06/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
GORDON, BRIAN R	1743	422-063000

**1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).**

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

**2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.**

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_

## **3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)**

**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

**(A) NAME OF ASSIGNEE**

**(B) RESIDENCE: (CITY and STATE OR COUNTRY)**

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☐ corporation or other private group entity ☐ government

**4a. The following fee(s) are enclosed:**

- ☐ Issue Fee
- ☐ Publication Fee
- ☐ Advance Order - # of Copies \_\_\_\_\_

**4b. Payment of Fee(s):**

- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Commissioner is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.

(Authorized Signature)

(Date)

**NOTE:** The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:** Commissioner for Patents, Washington, DC 20231.

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000466	7590	02/06/2003	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			GORDON, BRIAN R	
			ART UNIT	PAPER NUMBER

1743

DATE MAILED: 02/06/2003

**Determination of Patent Term Extension under 35 U.S.C. 154 (b)**  
(application filed after June 7, 1995 but prior to May 29, 2000)

The patent term extension is 0 days. Any patent to issue from the above identified application will include an indication of the 0 day extension on the front page.

If a continued prosecution application (CPA) was filed in the above-identified application, the filing date that determines patent term extension is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)

Any questions regarding the patent term extension or adjustment determination should be directed to the Office of Patent Legal Administration at (703)305-1383.



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			ART UNIT	PAPER NUMBER
			1743	
DATE MAILED: 02/06/2003				

**Notice of Fee Increase on January 1, 2003**

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after January 1, 2003, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there will be an increase in fees effective on January 1, 2003. See Revision of Patent and Trademark Fees for Fiscal Year 2003; Final Rule, 67 Fed. Reg. 70847, 70849 (November 27, 2002).

The current fee schedule is accessible from: <http://www.uspto.gov/main/howtofees.htm>.

If the issue fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due," but not the correct amount in view of the fee increase, a "Notice to Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice to Pay Balance of Issue Fee," if the response to the Notice of Allowance and Fee(s) due form is to be filed on or after January 1, 2003 (or mailed with a certificate of mailing on or after January 1, 2003), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability

Application No.

09/555,360

Examiner

Brian R. Gordon

Applicant(s)

WATSON ET AL.

Art Unit

1743

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12-2-2002.
2. ☒ The allowed claim(s) is/are 1-10, 17-18, 23-24.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☒ CORRECTED DRAWINGS must be submitted.
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☒ to Paper No. 13.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. 17.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/AU98/00991, filed on November 27, 1998. **Information Disclosure Statement**
2. The JP 08-334515 abstract received on December 2, 2002 has been considered by the examiner.

### *Drawings*

3. Applicant addressed the previous issues (Paper No. 13) concerning reference numerals 35, 35, 182, 184, and 198. However, applicant failed to address the remaining reference numerals that were also mentioned. Furthermore, applicant has amended the specification to include new reference numerals that were not present in the original specification as such these numerals should also be placed in the drawings. Applicant should review both the specification and drawings to ensure that all numerals are present and designate the correct appropriate elements in both the specification and drawings.
4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 36, 47, 67, 102, and new numerals 141, 139, 61. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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In addition reference numeral 92 labels arrows in figure 6B, however in figure 8A it is unclear what the numeral is indicating.

In Figure 7A, reference numeral 122 does not appear to be directed to the "conveyor belt".

***Response to Arguments***

5. In light of applicant's amendment/remarks filed December 2, 2002, all previous rejections of Paper No. 13 is hereby withdrawn.

**EXAMINER'S AMENDMENT**

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Phillip A. DuBois on February 3, 2003.

The application has been amended as follows:

In the claims delete and replace claims 18, 18, and 24 with the following amended claims:

11 -- 1. A sample container handling apparatus for a pathology sample distribution system having a plurality of containers for dispensing pathological samples therein for pathology analysis, each container having a closed end and an open end, the apparatus comprises hopper means having an upper container receiving section for receiving said plurality of containers and a lower guide section for guidingly delivering one or more of the containers into a plurality of holders

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d1  
respectively, and container alignment means arranged between the upper section and the lower section, and having a magazine with compartments, each of said compartments being configured for loading a container from said plurality of containers in the upper section, in a substantially horizontal orientation, the magazine being positionable in a manner to sequentially place said compartments over the lower guide section for releasing the containers in the compartments to fall into the guide section, the guide section being configured for aligning the containers released from the magazine from the substantially horizontal orientation to a substantially vertical orientation with the open ends positioned to receive samples when the containers are delivered to said holders.--

--18. The apparatus according to claim 11 wherein the magazine is in the form of a rotary magazine having circumferentially located compartments to hold the substantially horizontally oriented containers loaded from the container receiving section, a sideways plunger member arranged in co-operation with the rotary magazine and the guide section positioned beneath the rotary magazine to change the orientation of the containers released from the rotary magazine from the horizontal to the vertical orientation, in operation the sideways plunger member pushes the closed end of a container to be released from one of the compartments so that the displaced container released from the magazine falls into a side of the guide section that guides the released container to fall in the vertical orientation, said sideways plunger member when not in contact with a closed end, does not push a container which when released, falls into the opposite side of the guide which guides in the vertical orientation and having a magazine with compartments, each of said compartments being configured for loading a container from said plurality of containers in the upper section, in a substantially horizontal orientation, the magazine

d2



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being positionable in a manner to sequentially place said compartments over the lower guide

d2 section for releasing the containers in the compartments to fall into the guide, therefore,  
configuring said guide section .--

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14. A pathology sample distribution system having a plurality of primary containers of different types and the primary containers each containing a sample for pathology analysis, and having a bar coded label affixed thereto, the system comprises:-

a container handling station primary container identification means; the identification means including a bar code scanner arranged to sequentially scan bar coded labels on the primary containers transferred to the container handling station and an image analyser to analyse one or more characteristics of the primary container and/or the sample therein;

d3 a capping station having primary container cap removal and replacement sample aspiration and/or dispensing means for aspirating and/or dispensing volumetrically proportions of the samples from the primary containers;

blockage detection means for detecting blockage of flow in the sample aspiration means;

means for removal of the cap on one of the primary containers for aspirating the sample therein and for recapping it with the removed cap following the aspiration;

hopper means having container alignment means for delivering secondary containers each with a closed end and an open end in a vertical orientation and with the open ends in position to receive samples to be dispensed from the aspirated samples;

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secondary container sealing means arranged to seal the open end of each secondary container with a sample dispensed therein;

secondary container labelling means arranged to apply a label on each of the sealed secondary containers;

secondary container storage means for storing the secondary container with the applied label;

container conveyance means arranged to controllably transfer the primary containers and the secondary containers from the storage means;

wherein in operation each primary container containing a sample is sequentially presented to the identification means and the primary contains are accepted or rejected according to given criteria; the identification means being arranged to reject a primary container when it fails to detect the given criteria and thereby indicating the presence of an error condition,

when the given criteria are detected the cap of the primary container is removed and aliquots of the sample aspirated by the sample aspiration and/or dispensing means are dispensed into a secondary container or secondary containers which are then sealed by the container sealing means and labelled by the labelling means and placed in the storage means; and whereby

the conveyance of the primary containers and secondary containers between operational steps is via the container conveyance means and the whole process is coordinated and controlled by a computerised laboratory information management system.--

***Allowable Subject Matter***

7. Claims 1-10, 17-18, and 23-24 are allowed.

8. The following is an examiner's statement of reasons for allowance: The prior art does not teach or fairly suggest the device as claimed by applicant: A pathology sample distribution system having a plurality of primary containers of different types and the primary containers each containing a sample of pathology analysis, and having a bar coded label affixed thereto, the system comprising: a container handling station having primary container identification means; the identification means including a bar code scanner arranged to sequentially scan bar coded labels on the primary containers transferred to the container handling station and an image analyser to analyse one or more characteristics of the primary container and/or the sample therein; a capping station having primary container cap removal and replacement sample aspiration and/or dispensing means for aspirating and/or dispensing volumetrically proportions of the samples from the primary containers; blockage detection means for detecting blockage of flow in the sample aspiration means; means for removal of the cap on one of the primary containers for aspirating the sample therein and for recapping it with the removed cap following the aspiration; hopper means having container alignment means for delivering secondary containers each with a closed end and an open end in a vertical orientation and with the open ends in position to receive samples to be dispensed from the aspirated samples; secondary container sealing means arranged to seal the open end of each secondary container with a sample dispensed therein;

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secondary container labeling means arranged to apply a label on each of the sealed secondary containers; secondary container storage means for storing the secondary containers with the applied labels; container conveyance means arranged to controllably transfer the primary containers and the secondary containers from the storage means; wherein in operation each primary container containing a sample is sequentially presented to the identification means and primary containers are accepted or rejected according to given criteria; the identification means being arranged to reject a primary container when it fails to detect the given criteria and thereby indicating the presence of an error condition, when the given criteria are detected the cap of the primary container is removed and aliquots of the sample aspirated by the sample aspiration and/or dispensing means are dispensed into a secondary container or secondary containers which are then sealed by the container sealing means and labeled by the labeling means and placed in the storage means; and whereby the conveyance of the primary containers and secondary containers between operational steps is via the container conveyance means and the whole process is coordinated and controlled by a computerized laboratory information management system..

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is (703) 305-0399. The examiner can normally be reached on M-F, with 2nd and 4th F off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7719 for regular communications and (703) 305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

brg  
February 3, 2003

  
Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700

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